

Respectfully, neither *McManus* nor *McGrew* alone or in combination, disclose or suggest Applicant's invention. Accordingly, re-examination, reconsideration and allowance of the claims is respectfully requested.

Rejection Under 35 U.S.C. § 103

In the Office Action, the Examiner contended that Claims 4 - 6 were unpatentable over *McManus* in view of *McGrew*. The Examiner correctly alleged that *McManus* discloses a method of using agricultural waste water in a cooling tower. However, the Examiner admits that *McManus* does not disclose using clean water if its sodium content is too high for potable use for the cooling tower as claimed by Applicant. Notwithstanding, the Examiner argues that *McGrew* discloses separating waste water into two effluents using the clean water effluent as potable water and the other for other non-potable uses. The Examiner then goes on to argue that it would be obvious to one of ordinary skill in the art to modify the method of *McManus* to separate the waste water into two effluents using the clean water effluent as potable water and using the other effluents for other non-potable uses, if possible. The Examiner further argues that it would be obvious to one of ordinary skill in the art to test the clean water effluent for sodium and not to use it as potable water if too high of a sodium count. The Examiner is then silent as to where the suggestion is presented in the art as to actually using the tested clean water within a cooling tower if it has sodium too high for potable use.

Plainly, the Examiner's arguments have numerous deficiencies. First, the Examiner does not identify where the motivation exists in the prior art to combine the cited references in the manner claimed by Applicant. Rather, there must be some teaching, suggestion or incentive to make the combination made by the patentee *Interconnect Planning Corp. v. Feil*, 227 USPQ 543, 551 (Fed.Cir. 1988). Moreover, "there must be a teaching or suggestion... to combine them in the way there were combined by the inventor." *Btd Corp. v. Lydall, Inc.*, 159 F.3d 534 (Fed.Cir. 1998). "This burden of showing obviousness can only be established by an objective teaching in the prior art. The objective showing both must be clear and particular... broad conclusary statements are not evidence." *In Re Dembiczak*, 175 F.3d 994 (Fed.Cir. 1999).

Secondly, and perhaps more clearly evidencing the patentability of Applicant's invention, even if the cited references of *McManus* and *McGrew* were combined, the combination would not produce Applicant's claimed invention.

McManus

McManus describes a one year pilot study in which agricultural waste waters were used in a cooling tower. This reference does not disclose processing contaminated water to produce a first effluent of clean water and a second effluent of waste water. This reference does not disclose analyzing clean water to determine if the sodium content is too high for potable use. Moreover, this reference does not disclose using clean water within a cooling tower if it has been determined that the clean water sodium content is too high for potable use.

McGrew

Contrary to the Examiner's suggestion, *McGrew* does not disclose a process for treating contaminated water to produce a first effluent of clean water and a second effluent of waste water. Instead, the reference describes a strange process for collecting and distributing water by freezing water for short periods in regions where normal temperatures are below freezing. In fact, the collection and distribution of water is specified in the patent's title. This reference goes on to describe a process where water is collected by essentially spraying water onto land or ice wherein the ambient temperature is below zero so that the water freezes and can be stored in a frozen state. The water is then distributed when temperatures rise above freezing.

Meanwhile, the portion of this reference identified by the Examiner, does not disclose processing contaminated water to create a first effluent of clean water and a second effluent of waste water. Instead, Col. 1, lines 38 - 44 indicate that clean water may be used for residential potable use and a second "impure or reused water may be used for other domestic uses such as irrigation, waste disposal and the like", but there is no suggestion for processing either the clean water or the waste water.

Thus, this reference does not disclose processing contaminated water to produce first and second effluence. It does not disclose analyzing clean water to determine its sodium content. Furthermore, it does not disclose using the clean water if it has been determined that the clean water sodium content is too high for potable use.

Applicant's Claimed Invention

Applicant's broadest remaining claim, Claim 4, includes four elements. Namely

- (1) collecting water contaminated with salts...,
- (2) processing the contaminated water to produce a first effluent of clean water and a second effluent of waste water,
- (3) analyzing the clean water to determine its sodium content..., and
- (4) using the clean water within a cooling tower if it has been determined that the clean water's sodium content is too high for potable use.

ARGUMENT

Putting aside the fact that the references do not provide any sort of objective teaching to be combined in the manner claimed by Applicant, the combination would not remotely create Applicant's claimed invention. In fact, of the four elements of Applicant's independent claim, only one is suggested in the cited prior art. Specifically, it is admitted that the references disclose the first element of Claim 4, namely collecting waste waters. However, neither *McManus* nor *McGrew* disclose processing contaminated water to produce a first effluent of clean water or a second effluent of waste water. Instead, *McManus* discloses the use of waste water, but not processing it. Meanwhile, *McGrew* is directed to collecting rain waters and waste waters, but not

processing either to create a first effluent of clean water and a second effluent of waste water.

Secondly, neither reference includes any suggestion to test the processed water, let alone any suggestion to test clean water. Certainly, there is not suggestion to test clean water to determine its sodium content as claimed by Applicant.

Neither reference discloses the use of clean water produced from processing contaminated water in a cooling tower. To the contrary, *McManus* discloses the use of waster waters in a cooling tower, but not the clean water produced from a water processing system. Meanwhile, *McGrew* does not discuss any type of water used in a cooling tower.

Finally, neither reference discloses or suggests the use of using the clean water only if it has been determined that its sodium content is too high for potable use. Again, neither *McManus* nor *McGrew* provide any suggestion to test sodium content of water as claimed by Applicant.

Thus, the cited references do not disclose all but one of the elements of Applicant's claimed invention. Accordingly, Claim 4 and its dependent Claims 5 and 6 are believed allowable.

CONCLUSION

The claims in this case are believed to be in condition for allowance and notice thereof is respectfully solicited. If there are any remaining issues that need to be resolved, it is respectfully requested that a telephone call be placed to the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David G. Duckworth". The signature is fluid and cursive, with the first name "David" being the most prominent part.

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